

round the result to the fourth decimal place; and

(4) Multiply the factor resulting from paragraph (b)(3) of this section by the employee's former retained rate and round to the nearest whole dollar (for an annual rate) or the nearest whole cent (for an hourly rate) to derive the employee's converted retained rate at the new official worksite.

[70 FR 31310, May 31, 2005, as amended at 73 FR 66155, Nov. 7, 2008]

§ 536.304 Determining an employee's pay retention entitlement.

(a) *General.* (1) When an employee becomes entitled to pay retention under § 536.301 or 536.302 or undergoes a change in his or her position of record or pay schedule while receiving a retained rate (when the terminating conditions for pay retention under § 536.308 do not apply), the agency must determine the employee's pay retention entitlement following the rules in this section.

(2) Any general pay adjustment (including a retained rate adjustment under § 536.305) that takes effect on the same date as an action described in paragraph (a)(1) of this section must be processed first, before any other pay action and before applying the rules in paragraphs (a)(3), (a)(4), (b), or (c) of this section, as applicable.

(3) If the location of an employee's official worksite changes in conjunction with an action that may provide initial entitlement to pay retention, the agency must apply the geographic conversion rule under § 536.303(a) before applying the rules in paragraph (b) of this section. The converted rate of basic pay must be treated as the employee's existing payable rate of basic pay in applying those rules.

(4) If the location of an employee's official worksite changes while he or she is receiving a retained rate, the agency must apply the geographic conversion rule under § 536.303(b) before applying the rules in paragraph (c) of this section. The converted retained rate must be treated as the employee's existing retained rate in applying those rules.

(5) When an employee's pay retention entitlement is established or redetermined under this section on the same

effective date as other pay actions that affect an employee's rate of basic pay, the actions must be processed in the order prescribed under the rules governing the covered pay system of the employee's position of record (e.g., 5 CFR 531.206 for GS positions and 5 CFR 532.413 for Federal Wage System positions).

(6) In applying this section, an agency must convert an employee's existing annual rate of pay to an hourly rate of pay if the employee's new position is under a pay system that uses only hourly rates. An agency must convert an employee's existing hourly rate of pay to an annual rate of pay if the employee's new position is under a pay system that uses annual rates of pay.

(b) *Determining initial pay retention entitlement.* When an employee becomes entitled to pay retention under § 536.301 or 536.302, the agency must determine the employee's pay retention entitlement under the following rules (subject to the requirements in paragraph (a) of this section):

(1) If an employee's existing payable rate of basic pay is less than or equal to the maximum rate of the highest applicable rate range for the grade of the employee's position of record immediately after the event causing the pay retention entitlement, the employee is entitled to the lowest rate of basic pay in such rate range that equals or exceeds the employee's existing payable rate of basic pay. If an employee's payable rate of basic pay is set at or below the maximum rate of the highest applicable rate range, pay retention under this subpart ceases to apply to the employee.

(2) If the employee's existing payable rate of basic pay is greater than the maximum rate of the highest applicable rate range for the grade of the employee's position immediately after the event causing the pay retention entitlement, the employee is entitled to a retained rate equal to the employee's existing payable rate of basic pay, subject to the limitations in paragraph (b)(3) of this section.

(3) A newly established retained rate may not exceed—

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(i) 150 percent of the maximum payable rate of basic pay of the highest applicable rate range for the grade of the employee's position of record; or

(ii) The Executive Level IV maximum rate limitation established under § 536.306.

(4) In applying this section for an employee who becomes eligible for pay retention while serving on a temporary promotion or temporary reassignment, the agency must use the rate of basic pay the employee would have received if the temporary promotion or temporary reassignment had not occurred.

(c) *Redetermining pay retention entitlement at time of change in position or pay schedule.* When an employee receiving a retained rate undergoes a change in position or pay schedule that results in a new highest applicable rate range (and when the terminating conditions for pay retention under § 536.308(a)(1), (3), (4), and (5) do not apply), the agency must determine the employee's pay retention entitlement under the following rules (subject to the requirements in paragraph (a) of this section):

(1) If the employee's grade and pay system are not changing and if the employee's existing retained rate is less than or equal to the maximum rate of the highest applicable rate range for the employee's position of record immediately after the position or schedule change, the employee is entitled to the maximum rate of the highest applicable rate range, and pay retention ceases to apply.

(2) If the employee's grade and pay system are not changing and if the employee's existing retained rate is greater than the maximum rate on the highest applicable rate range for the employee's position of record immediately after the position or schedule change, the employee continues to be entitled to the existing retained rate.

(3) If the employee's pay system is not changing but the employee is being promoted to a higher-graded position, the agency must apply the applicable promotion rules to determine the employee's payable rate of basic pay (e.g., the rules in 5 CFR 531.214(d)(5) for GS positions and 5 CFR 532.407 for Federal Wage System positions). If the promotion action results in a terminating condition as described in § 536.308 (e.g.,

the resulting rate is equal to or greater than the existing retained rate), pay retention ceases to apply. Otherwise, the employee's existing retained rate continues.

(4) If the employee is moving to a position under a different covered pay system whose grade has a higher comparison rate, the agency must apply the applicable pay administration rules to determine the employee's payable rate of basic pay (e.g., part 531, subpart B, for GS positions and part 532 for Federal Wage System provisions). If the promotion action results in a terminating condition as described in § 536.308 (e.g., the resulting rate is equal to or greater than the existing retained rate), pay retention ceases to apply. Otherwise, the employee's existing retained rate continues.

(5) In applying this section to a retained rate employee who receives a temporary promotion or temporary reassignment, the temporary promotion or temporary reassignment is not a basis for permanently terminating an employee's pay retention entitlement. When the temporary promotion or temporary reassignment ends, the employee's pay retention entitlement will be determined as if the employee had not received the temporary promotion or temporary reassignment.

(6) Notwithstanding § 536.308(a)(1), an agency must continue a retained rate entitlement for an employee serving under an interim appointment made under 5 CFR 772.102 if the employee's pay was retained under this subpart under the appointment immediately preceding the interim appointment.

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§ 536.305 Adjusting an employee's retained rate when a pay schedule is adjusted.

(a)(1) Except as otherwise provided in this section, when the maximum rate of the highest applicable rate range for an employee's position of record is increased while the employee is receiving a retained rate, the employee is entitled to 50 percent of the amount of the increase in that maximum rate, subject to the maximum rate limitation in § 536.306. This 50-percent adjustment rule applies only when the maximum